

REMARKS

The examiner objects to the claim numbering, which omits claim 166. A new claim has been added and numbered as 166.

The examiner makes an obviousness-type double-patenting rejection, mapping claim 111 of the instant application to claim 164 of application number 10/752,838. The examiner is urged to reconsider and withdraw this rejection. The two applications are manifestly distinct, particularly in light of additional limitations added to claim 111. The invention of application 10/752,838 is independent of any bandwidth savings that may be achieved using hash-based naming of data items, it is not restricted to archival storage of records from a separate storage system, and it is not directed towards making those archival records available for high-speed access by application servers attached to the network. None of the following limitations of claim 111 of the instant application appear in claim 164 of application 10/752,838:

“testing for whether the data item is already stored in the repository by comparing the digital fingerprint of the data item to digital fingerprints of data items already in the repository;
only if the data item is not already stored in the repository, transferring the data item over the lower speed connection from the client to; the repository [...]

making a higher speed connection between the application server and the data repository;
executing an application on the application server to process the data item stored in the data repository; and

returning a result of the executing step to the client across the lower speed connection;
wherein the client has a plurality of data items stored in the data repository and the client controls which of the plurality of data items the application server is allowed to access;
wherein the plurality of data items are archival records of data that were persistently stored in non-volatile storage outside of the repository;”

The examiner also rejects claim 111 as being unpatentable under 35 USC 103 as obvious over Yuasa in view of Kanai. The examiner is urged to reconsider and withdraw the objection, particularly in view of the amended claim language that is similar to language the examiner proposed as an examiner-initiated amendment to the claims. We respectfully submit that, even

without the amended language, the most recent rejection was improper since our previous amendment ruled out reading the expiration times of Yuasa, which involve expiration of data from a cache, against the expiration times of the instant application, in which expiration times govern required retention and prevent deletion even by a client that can change the expiration time. Yuasa neither allows expiration times to be extended (it is fixed at one week after the start date, see Yuasa column 9, lines 12-14), nor does Yuasa prevent the user from deleting the stored data before the expiration time (if a recording is canceled, captured data is deleted immediately, Yuasa column 18, lines 15-24). Thus Yuasa cannot read against the penultimate wherein clause of claim 111, which requires both that the client can extend expirations and cannot cause early deletion.

Moreover, we have added limitations to claim 111 which further distinguish the instant invention from the combination of Yuasa and Kanai, restricting the invention to the archival storage of records that were persistently stored outside of the repository but with access that remains under the control of the original storer:

“wherein the client has a plurality of data items stored in the data repository and the client controls which of the plurality of data items the application server is allowed to access;

wherein the plurality of data items are archival records of data that were persistently stored in non-volatile storage outside of the repository;”

This amendment brings elements of claims 172 and 173 into the independent claim, as was suggested by the examiner. All of claim 172 appears in 111 and the original claim 172 is canceled. A less restrictive version of claim 173 appears, which only includes the idea that the records in question were archival copies of records that were persistently stored outside of the repository—which is already a very strong limitation. The more detailed limitation of the original claim 173 is retained, split between amended claim 173 and new claim 178. With these added limitations it is very clear that claim 111 does not read against the art of record. Accordingly we request allowance of claim 111.

In addition to claim 178, which was formerly part of 173, two other new claims have been added to further define what is meant by “lower speed” and “higher speed” connections.

The first of these new claims is numbered 166, a number that was omitted in the original numbering. New claim 166 expresses the idea that the low speed connection might be intermittent while the high speed connection is constant. This limitation is discussed in paragraph [0056] of the published application, US20020038296A1. New claim 179 distinguishes between a residential-grade connection and a commercial-grade connection, reflecting a distinction between the slow connectivity of personal computers (which are mostly in residences) and commercial application servers (see, for example, paragraphs [0005] and [0054] of US20020038296A1).

Each of the dependent claims adds one or more further limitations to claim 111 that enhance patentability, but those limitations are not presently relied upon. For that reason, and not because applicants agree with the examiner, no rebuttal is offered to the examiner's reasons for rejecting the dependent claims.

Allowance of the application is requested.

Please allow any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 7/22/2007

/grogerlee/
G. Roger Lee
Reg. No. 28,963

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906